

**§ 282.11**

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to verify the liner services offered by foreign-flag operators.

(b) The U.S. import/export data shall be compiled by reference to countries actually served by the subsidized operator, using the subsidized operator's

own competition data for each country to eliminate the flags which are not substantial competitors with the subsidized vessels. An example of the weighting procedure follows:

EXAMPLE

	Country A	Country B	Country C	Total
I. Determination of U.S.-Flag Weights:				
U.S. Subsidized Carrier .....	300	500	200	1,000
Percent .....	30	50	20	100
II. Actual Foreign-Flag Carryings:				
Flag 1 .....	1,500	500	1,000	3,000
Flag 2 .....	4,000	6,000	0	10,000
Flag 3 .....	5,000	2,000	5,000	12,000
III. Adjusted Foreign-Flag Carrying (Actual Foreign × U.S. wts):				
Flag 1 .....	450	250	200	900
Flag 2 .....	1,200	3,000	0	4,200
Flag 3 .....	1,500	1,000	1,000	3,500
IV. Competition Computation:				8,600
		Actual		Re-weight
		percent		(percent)
Flag 2 .....	4200/8600	49.0		55.0
Flag 3 .....	3500/8600	41.0		45.0
		90.0		100.0

(c) The principal foreign flags shall be those countries whose cargo carrying would rank the flag among those carriers that aggregate at least 50 percent of the total foreign-flag carryings.

(d) The total cargo carryings of each principal foreign flag shall be expressed as a percentage of total cargo carryings of all principal flags on the service. The resultant ratio shall be applied to the costs of that principal flag for determining its portion of the composite foreign cost, which shall be used for establishing the cost disadvantage of U.S. vessels in the service.

(e) The determination of the principal competitors and competition weight factors shall be based upon the import/export data for the twelve months of the penultimate calendar year preceding January 1 of the subsidized year to allow several months to collect foreign cost data.

**§ 282.11 Ranking of flags.**

The operators under each principal foreign flag shall be ranked as predominant, secondary, etc., for the purpose of establishing the priority of costs which are representative of the flag. For liner cargo vessels, the rank-

ing of operators shall be based on the long tons of cargo carried.

(a) If the predominant operator is an agent, charterer or a joint venture in which the vessels are owned by two or more lines, under the name of such agent, charterer or joint venture, the predominant operator shall be the owner whose vessels carried the most cargo.

(b) If cost experience cannot be obtained for the foreign-flag operators in the subsidized service, MARAD may use the costs of another service, following the same ranking of operators, if possible.

**Subpart C—Calculation of Subsidy Rates**

**§ 282.20 Amount of subsidy payable.**

(a) *Daily Rates.* Daily ODS rates shall be used to quantify the amount of ODS payable. The daily ODS rate represents the cost differential between the subsidized vessel and its foreign-flag competition. A daily rate shall be calculated for each subsidized item of expense identified in the ODSA, and the total of all items is the daily amount

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of ODS payable for approved vessel operating days, excluding reduced crew periods.

(b) *Reduced Crew Periods.* For reduced crew periods, as defined in § 282.3 of this part, a man-day reduction amount, calculated separately for officers and unlicensed crew members, shall be used to reduce the daily wage ODS rate to conform to the complement remaining on the vessel. The man-day reduction amounts shall be determined by dividing the daily wage ODS for officers and unlicensed crew members by the number of subsidizable crew members in each category. For each day of a reduced crew period, the man-day amount shall be multiplied by the number of crew members missing for that day, and the resulting product shall be deducted from the daily ODS rate. The difference shall be the ODS payable for such day. (See illustration in Schedule D at § 282.31 of this part.)

(c) *Review of Rates.* Daily subsidy rates shall be reviewed every six months. For the item “wages of officers and crews,” the daily rate shall be calculated for fiscal periods July 1 through June 30, in accordance with provisions of the Act. During the period January through June, adjustments—paid as a lump sum or as a daily amount—shall be made to wage ODS so that the correct amount of ODS for the full fiscal period is received by the operator. For other subsidizable items of expense, the daily rate shall be calculated for calendar years.

(d) *Negative Rates.* When an ODS rate in any category is less than zero, indicating that the subsidized operator is at an advantage rather than a disadvantage in such category, the negative rate shall be deducted from positive rates in determining the daily ODS amount payable.

(e) *Operator Comments.* The operator shall have the opportunity to comment on each subsidy rate as calculated by the Maritime Administration. The operator and contracting officer shall make every effort to resolve disagreements that arise. In the event of a disagreement that cannot be resolved, comments received from the operator and the contracting officer’s recommendation shall be presented to the

Maritime Administrator for consideration in determining subsidy rates.

### § 282.21 Wages of officers and crew.

(a) *Definitions.* When used in this part.

(1) *Base period.* The first base period under the wage index system, as provided in section 603 of the Act, is the period beginning July 1, 1970 and ending June 30, 1971. Thereafter, base period means any annual period beginning July 1 and ending June 30, with respect to which the Maritime Administrator establishes a base period cost. At intervals of not less than two years, nor more than four years, the Maritime Administrator shall establish a new base period. Base periods shall be announced by the Maritime Administrator prior to the December 31 date that would be included in the new base period.

(2) *Base period cost*—(i) *Initial base period.* For the initial base period of subsidized service, the term *base period cost* means the collective bargaining cost as of January 1 of that base period.

(ii) *Subsequent base periods.* For base periods subsequent to the initial base period, the term *base period cost* means the averaged of the collective bargaining cost as of January 1 of such fiscal year, and the base period cost of the previous base period, indexed to January 1 of the new base period by an index compiled by the Bureau of Labor Statistics. This index shall consist of the average annual change in wages and benefits placed into effect for employees covered by collective bargaining agreements, with equal weight to be given to changes affecting employees in the transportation industry (excluding the off-shore maritime industry) and to changes affecting employees in private non-agricultural industries other than transportation. However, such base period cost shall not be less than a minimum, nor more than a maximum amount, determined as a percentage of the collective bargaining cost computed for January 1 of such base period in accordance with the following schedule: